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Dead Man Talking

December 8, 2008 in [China Behind the Headline](#), [Zhang Lijia](#) by [The China Beat](#) | [1 comment](#)

China is reducing death sentences but problems remain

By [Zhang Lijia](#)

On July 1 this year, a masked man named Yang Jia forced his way into the Zhabei police bureau in Shanghai, armed with a knife. In a killing rampage, he left six policemen dead and four injured. Last Wednesday, the 28-year-old unemployed man from Beijing [was executed](#) by lethal injection after the Supreme People's Court decided to uphold the death sentence.

There was little surprise for the fate of a cop-murderer in a country where more people are thought to be killed by the capital punishment than the rest of the world combined. Yet the accused seems to have become an unlikely hero. At the second hearing hundreds gathered outside a Shanghai court, some holding signs that read "Long live the hero with a knife!"

In October 2007, Yang was questioned by a policeman in Zhabei district for riding an unregistered bike and was later detained for six hours. Claiming to have been beaten and mistreated by the police, he filed multiple complaints, demanding a formal apology and 10,000 yuan compensation for psychological damage.

Ever since the bloody July day, the Yang Jia saga has weighed on the Internet. Now his execution has sparked more discussions. One man wrote that the whole Yang Jia fiasco was an insult to the Chinese people. Another blogger urged people to mourn him for three days by not eating meat. Yang's humiliation at the hands of policemen and his effort in seeking justice resonated with a public sick of the security force abusing its power and easily getting away with it.

The death penalty has always been used by the Chinese Communists as a harsh tool to maintain social security and political order and to curb crime. Partly because top Chinese leaders feel uncomfortable with the accusation that China applies capital punishment too readily, partly because the international community has pressured China persistently, reforming capital punishment has been made a priority within the Party-run judiciary system. There's been heated debate among academics as to how to reform. One of the suggestions is precisely to restrict the power of police, to the displeasure of hard-liners.

"Ever since January 2007 when the Supreme Court took back the sole authority in reviewing the death penalty, I have noticed a substantial decrease in issuing death sentences, especially cases of immediate execution," said professor Chen Weidong, a top expert on death penalty from Renmin University. "Killing fewer and killing with extreme caution is also the guidance from central government."

The precise number of executions is a state secret in China. Amnesty International reported that last year 1,860 were given death sentences and at least 470 were executed, a remarkable reduction from 2006's 1010, or 2005's 1770, but still 80 percent of the world total, though the real numbers are believed much higher.

Despite progress, there's still widespread fear that death sentences are passed without proper procedure and innocent people are convicted.

"There will always be problems when cases are handled with this behind-the-curtains judiciary style," said human rights lawyer Li Jinsong in Beijing. Li, a tiny, soft-spoken man, explained that he became outraged as he followed the unfolding drama: Yang's mother inexplicably "disappeared." Yet Xie Youming, one of two lawyers appointed by the court as Yang's defense lawyer and also a counsel for Zhabei district government, a potential conflict of interest, was able to contact her.

"Yang killed people, which should be condemned. But he deserved a fair trial," Li said. A well-known lawyer and a winner of the French government's "Liberty, Equality and Fraternity" award, he managed

to persuade Yang's father to retain him. Li went to Shanghai several times but failed to meet Yang Jia on the ground that Yang had made statement that he would only accept lawyers appointed by his mother. In the company's website, Li has written a detailed account of his involvement and raised many questions: Why did the court try to cover up Yang's real motives of crime? Did Yang have adequate legal presentation?

Li's biggest question is Yang's mental state. The lawyer was present at the second trial. (the first trial was closed) When asked if he regretted what he did, Yang replied flatly: "No!"

"See, Yang didn't even try to rouse any sympathy," Li said. "He struck me as mentally unsound." But the evaluation of his mental competence was performed by a research institute under the Department of Justice, which lacks the judicial testimony qualifications required according to Chinese law.

There was another bizarre twist. Four months after her "disappearance," Yang Jia's mother Wang Jinmei was recently found at Ankang Mental Hospital in Beijing, *Southern Metropolis News* reported. No one seems to have any access to her. Li suspects that she was detained by Beijing authority in cooperation with Shanghai police because she is the only person who knows the whole story of Yang's dealings with the police in the lead up to his brutal killing.

"The real problem with China's legal system is that it's under the Communist party's control," said Danny Gittings, an academic who specializes in the Chinese legal system at the University of Hong Kong. "The procuratorate, public security and judiciary are separate organizations but all under the control of the same arm of the Party – the political-legal committees which exist at every level of the state. And there's still no sign of any willingness to address the fundamental problem – the lack of a legal system independent from the state."

Yang Jia's case also shows how little protecting mechanism there is for the convicted murderer in a legal system built for conviction.

Zhu Zhanping, a lawyer from Xian, strongly advocates for the abolishment of capital punishment altogether, and as soon as possible. "It's too easy to convict an innocent person to death and too difficult to overturn once the verdict is passed," he said.

In 2001, Zhu tried to defend another defendant facing death. Dong Wei was a young migrant who got into a fight at a cinema with a man who insulted his girlfriend. In his self-defense, Zhu believed, Dong accidentally killed that man. "Dong probably over-reacted a little but absolutely didn't deserve to die." Zhu discovered that the sole evidence the judge relied on was full of contradictions. Shortly before Dong's scheduled execution, Zhu, in desperation, rushed to Beijing to turn to the Supreme Court's for help – an unprecedented act. Having agreed there were too many unanswered questions, the Court ordered to halt the execution. But only for 130 days. In the end, the provincial Higher Court upheld the original verdict.

"Being a Chinese, I was brought up with the belief: to replace a teeth with a teeth and to repay blood with blood. After witnessing the pain endured by Dong and his family, I changed my mind. No human should put another human to die. It won't achieve anything." Zhu has been writing articles advocating his belief. The vast majority of Chinese support capital punishment, not a surprising fact for a cultural tradition that places less importance on individual life than does the Western 'humanist' tradition.

In recent years, there have been a lot of reports of innocent people being sentenced to death. In one case, a farmer was given the death sentence for killing his mentally disturbed wife, who then after eleven years, returned home. Luckily, the farmer had not been executed yet.

Professor Chen Weidong doesn't think it is the time to abolish capital punishment yet. "China is going through drastic social and economic changes, which has led to rising crimes, including violent and serious crimes. And there's no religious or moral obligations. To abolish it now, the crime rate will soar and it may cause social instability." What the experts are trying to do, Chen said, is to reduce the number of offences punishable by death, to reduce the number of death sentences, and to set up detailed and precise guidance for when a death sentence can be issued.

Currently China uses capital punishment for 68 crimes, including non-violent crimes such as tax evasion, drug trafficking and panda-poaching. Two days after Yang Jia's execution, another high-profiled defendant, medical scientist Wo Weihai, was executed as well, triggering worldwide condemnation. Wo's family wasn't even given the opportunity to say goodbye.

Professor Chen, who has been following Yang Jia's case, believes the overall handling was more or less fair.

The claim pains Yang Jia's father, Yang Fusheng. "The trial wasn't fair! I sort of expected this might happen but I still found it hard to accept," he said in a telephone interview in Beijing. He doesn't wish to meet any journalist, fearing being monitored. He described his son as quiet and law-abiding, living with his mother since the couple's divorce. He said he will follow his son's path – fighting for justice but without violence, and trying to bring every one of those who wronged his son to court. He previously tried to sue one of the court appointed lawyers.

"Now my only child is dead. I hope that people can learn lessons from it and improve the rule of law in China," said Yang Fusheng.

Tags: [China execution](#), [death penalty](#), [Yang Jia](#), [Zhang Lijia](#)